

**SECOND AMENDMENT TO THE
PROJECT AGREEMENT BETWEEN
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
THE BUFFALO NIAGARA RIVERKEEPER, AND HONEYWELL**

The Project Agreement (Agreement) between the United States Environmental Protection Agency (U.S. EPA), and the Buffalo Niagara Riverkeeper (Riverkeeper) to conduct Remedial Investigation and Feasibility Study in the Lower Buffalo River, including the Buffalo Harbor and City Ship Canal, Buffalo, New York (Buffalo River RI/FS), signed by U.S. EPA on March 9, 2007, and amended on September 11, 2008, is amended a second time as described in this document.

Additionally, in the "Budget" section of the Amended Statement of Work, (i) the reference to \$3,000,000 is changed to \$4,000,000, (ii) the reference to \$1,950,000 is changed to \$2,600,000, and (iii) the reference to \$650,000 is changed to \$1,400,000.

**ARTICLE II - OBLIGATIONS OF GLNPO AND
THE NON-FEDERAL SPONSORS**

3. a. Throughout the Project Period, the GLNPO Project Coordinator and the Non-Federal Sponsors shall arrange to have the U.S.EPA contractor, and the contractors of the Non-Federal Sponsors, furnish each party with monthly progress reports.

b. Notwithstanding Paragraph 2 of this Agreement, if the award of any contract for constructing the Project would result in Total Project Costs exceeding \$4,000,000, GLNPO and the Non-Federal Sponsors shall defer award of that contract and all subsequent contracts for Project construction until they agree to proceed with further contract awards, but in no event shall the contract awards be deferred for more than 9 months. Notwithstanding this general provision for deferring contract awards, GLNPO, after signing a modification to this Agreement that has been negotiated in good faith with the Non-Federal Sponsors to increase the Total Project cost limit in this Paragraph, may award a contract or contracts after the Director of GLNPO determines in writing that the award of the contract or contracts must proceed to comply with law or to protect human life or property from imminent and substantial harm at the prescribed cost share.

ARTICLE IV - METHOD OF PAYMENT

14. As set forth in Paragraph 5, the Non-Federal Sponsors' required contribution is 35% of Total Project Costs. As of the effective date of this Agreement, the Total Project Costs are projected at \$4,000,000, and the Non-Federal Sponsors' contribution required under Paragraph 5 is projected at \$1,400,000. Notwithstanding this required contribution, it is anticipated that the Non-Federal Sponsors may contribute up to \$2,050,000, which is more than 35% of Total Project Costs, to perform the work set forth in the Amended Statement of Work. To the extent that the Non-Federal Sponsors'

contribution exceeds 35% of Total Project Costs, pursuant to Paragraph 5(c), the amount of the contribution above 35% will be applied to the Non-Federal Sponsors' contribution for work performed pursuant to any future non-remedial action amendments to the Project Agreement if the Project Agreement is amended in the future by mutual consent of the Parties to such future amendment. These amounts are subject to adjustment by GLNPO, after consultation with the non-Federal Sponsors, and are not to be construed as the total financial responsibilities of GLNPO and the Non-Federal Sponsors.

ARTICLE XX - AUTHORITY OF SIGNATORY TO BIND

48. Each undersigned representative of the Non-Federal Sponsors and GLNPO certifies that he or she is fully authorized to enter into the terms of this Agreement and to execute and legally bind such Party to this Agreement.

49. U.S. EPA and the Non-Federal Sponsors agree that the actions undertaken by the Non-Federal Sponsors in accordance with this Agreement do not constitute an admission of any liability by any Party.

By: Walter W. Karalich
Bharat Mathur *for*
Acting National Program Manager
Great Lakes National Program Office

Date: 4/15/09

SECOND AMENDMENT TO THE PROJECT AGREEMENT BETWEEN
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By: 
Julie Barrett O'Neill
Executive Director
Buffalo Niagara Riverkeeper

Date: 3/31/09

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By: David L. Wickersham
David L. Wickersham
Director, Remediation & Evaluation Services
Honeywell

Date: 4-2-09